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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,993	08/01/2003	Fausto Meli	CISCP834	8984
54406	7590	05/23/2007	EXAMINER	
AKA CHAN LLP / CISCO 900 LAFAYETTE STREET SUITE 710 SANTA CLARA, CA 95050			PASCAL, LESLIE C	
		ART UNIT	PAPER NUMBER	
		2613		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/632,993	MELI, FAUSTO	
	Examiner	Art Unit	
	Leslie Pascal	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 May 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-12 and 28-32 is/are allowed.
- 6) Claim(s) 13-15,20-22 and 27 is/are rejected.
- 7) Claim(s) 16-19 and 23-26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

1. Claims 13-15, 20-22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinds et al (6920297) in view of Melnyk et al (6590659).

Hinds et al teach generating a verification signal (column 12, lines 54-55) and transmitting the verification signal from a first end (column 12, lines 56-59), receiving the verification signal (column 12, lines 60-62) which "allows verification upon reception of said verification signal" (column 12, lines 63-67). Although Hinds does not teach specifics that his verification signal is comprised of plural distinct colors wherein magnitudes indicate the connection identifier, he teaches that he compares the received signal with predefined connection models that are stored. Melnyk et al teach generating a multi-wavelength signal (column 2, lines 16-24). In that he strips a first end (claim 3 of Melnyk et al) of the cord and sends the signal through it, this reads on the transmitting portion. In regard to the magnitudes having distinct color signals, since the reference verifies a particular identification/verification based on the magnitude and wavelengths, the magnitudes are clearly important in order to indicate the verification. He uses the magnitude and wavelength to compare with stored information in order to determine the verification information. This is made in view of the above 101 rejection- (Melnyk does teach means to verify, the applicant does not claim means to verify). In regard to claim 13, the coupler is the buffer.

Melnyk et al teach a similar system which uses different colors (RGB) and magnitudes in order to compare with stored information in order to provide a verification signal. It would have been obvious to use plural wavelengths as taught by Melnyk in the system of Hinds in order to provide a more unique signal that is easier to send and detect. In

regard to claims 3, 9, he appears to send data at the same time. In regard to claims 4-5, 10-11, see claim 2-3 of Hinds et al. In regard to claims 7, 15, 22 it would have been obvious to use CMY instead of RGB. The applicant's specification teaches that this is not a critical feature. In regard to claim 13, the signals are in some way combined according to claim 3 of Hinds et al. In regard to claims 12 and 29, Melnyk et al teach that either a white light transmitter with reflection means or different transmitters may be used.

2. Claims 1-12 and 28-32 are allowed.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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4. In response to the applicants' arguments and amendments, the amendments to claims 13 and 20 do not POSITIVELY recite verifying the connection. See MPEP 2111.04:

Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. However, examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are:

- (A) "adapted to" or "adapted for" clauses;
- (B) "wherein" clauses; and
- (C) "whereby" clauses.

The determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "whereby" clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention." *Id.* However, the court noted (quoting *Minton v. Nat'l Ass'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited." "*Id.*"<

The claims "make optional" verifying the connection. To say the signal "allows upon reception verification" does not positively recite verifying. The signal of Hinds "allows" verification.

5. Claims 16-19 and 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Further, if claims 13 and 20 positively recited the reception and verification using the color and magnitude (as in the other independent claims), they would appear allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leslie Pascal
Leslie Pascal
Primary Examiner
Art Unit 2613